

# Tax Information

## Bulletin

Issued Quarterly

June 2004

California State Board of Equalization  
P.O. Box 942879, Sacramento, CA 94279-0001

## What's Inside

- 1 Cigarette and Tobacco Products Licensing Act**  
New tax rates take effect July 1, 2004
- 2 Revised regulations**  
Vending machine sales  
Change in partial tax exemptions
- 3 Taxes and restaurant tips**  
Bill of Rights Hearings  
Small Business Fairs  
Torrance District Office moving
- 4 Underground storage tanks**  
Basic sales and use tax classes  
New or revised reference material

### Have you obtained your new cigarette and tobacco products retailer's license?

June 30, 2004, is the deadline for all retailers selling cigarettes or tobacco products in California to obtain a license from the Board of Equalization. This new license is required under the California Cigarette and Tobacco Products Licensing Act of 2003 (Assembly Bill 71), which went into effect January 1, 2004.

The Board's Investigation Division has been visiting businesses that sell cigarettes or tobacco products to ensure that their seller's permits, tax indicia on cigarettes, and records are in compliance with the law. Starting July 1, 2004, they will begin verifying that retailers have obtained the new cigarette and tobacco products license. This license must be displayed in plain view of the public.

Based on this new Act, retailers must allow the Board, or other authorized enforcement agencies, to conduct inspections and review their invoices upon request. During these inspections, if any untaxed cigarettes or tobacco products are discovered, they will be seized and forfeited to the State of California.

The Department of Health Services and local law enforcement agencies are also authorized to monitor licensing. The Office of the Attorney General also has enforcement authority.

#### For more information

##### Visit our website

- For a program overview, go to [www.boe.ca.gov/sptaxprog/spctlicact03.htm](http://www.boe.ca.gov/sptaxprog/spctlicact03.htm).
- If you have not applied for a license yet, visit [www.boe.ca.gov](http://www.boe.ca.gov). Click on "Register for a Permit or License" (Excise Taxes) to download an application.
- Download publication 78, *Sales of Cigarettes and Tobacco Products in California*. This publication is designed for retailers. At [www.boe.ca.gov](http://www.boe.ca.gov), click on "Written Information & Research Tools" (Forms, Publications, Reports & News).

##### Call our Information Center

- Call 800-400-7115 (select the "Cigarette and Tobacco Products" option under "automated services"). Representatives are also available to answer questions Monday through Friday, excluding state holidays, from 8:00 a.m. to 5:00 p.m.

##### Investigations Division

- Call 916-324-0105 if you have questions regarding the inspections.

### New tax rates take effect July 1, 2004, in five areas

Voters have approved new taxes affecting Alameda County and the cities of Santa Cruz, Davis and Visalia. In Mariposa County, the tax district will expire, reducing the total tax rate in that county.

Beginning July 1, 2004, the new sales and use tax rates are as follows:

#### ■ Alameda County: 8.75%

Increases the tax rate in the county from 8.25% to 8.75%.

#### ■ City of Santa Cruz: 8.25%

Increases the tax rate within the city limits from 8.00% to 8.25%. The tax rate in Santa Cruz County outside the city of Santa Cruz will remain 8.00%.

#### ■ City of Davis: 7.75%

Increases the tax rate within the city limits from 7.25% to 7.75%. The tax rate in Yolo County outside the city of Davis (and the cities of West Sacramento and Woodland, which also have a 7.75% tax rate) will remain 7.25%.

#### ■ City of Visalia: 7.50%

Increases the tax rate within the city limits from 7.25% to 7.50%. The tax rate in Tulare County outside the city of Visalia will remain 7.25%.

(NEW RATES continued on page 4)

BOARD  
MEMBERS

Carole Migden  
First District  
San Francisco

Bill Leonard  
Second District  
Ontario

Claude Parrish  
Third District  
Long Beach

John Chiang  
Fourth District  
Los Angeles

Steve Westly  
State Controller  
Sacramento

EXECUTIVE  
DIRECTOR  
Ramon J. Hirsig

## Does a revised regulation affect you?

To find out, check the following sales and use tax regulations that have been revised in the last year. For copies of Board regulations, go online to [www.boe.ca.gov/sutax/staxregs.htm](http://www.boe.ca.gov/sutax/staxregs.htm), or call our Information Center.



- **1553, Miscellaneous Repair Operations**  
Clarifies when watch and jewelry repairers are retailers rather than consumers of high-value parts and gemstones. Also see September 2003 TIB, [www.boe.ca.gov/news/pdf/Sept03tib.pdf](http://www.boe.ca.gov/news/pdf/Sept03tib.pdf).
- **1591, Medicines and Medical Devices**  
Provides an exemption for breast tissue expanders and tissue expanders as medicines.
- **1592, Eyeglasses and Other Ophthalmic Materials**  
Explains the application of tax to clip-on sunglasses sold by physicians and surgeons, optometrists, or dispensing opticians.
- **1598.1, Diesel Fuel Prepayment Exemption**  
Explains when a seller of diesel fuel may accept a diesel fuel prepayment exemption certificate. Relates to customers who resale fuel to persons claiming a partial exemption from tax for diesel used in farming or food processing activities.
- **1620.1, Sales of Certain Vehicles and Trailers for Use in Interstate or Out-of-State Commerce**  
Describes the exemption for new or remanufactured trucks and trailers that will be used in interstate or out-of-state commerce.
- **1621, Sales to Common Carriers**  
Beginning April 1, 2004, reinstates the exemption for fuel and petroleum products sold to water common carriers through December 31, 2013. Also see special notice to water common carriers, [www.boe.ca.gov/news/pdf/L116.pdf](http://www.boe.ca.gov/news/pdf/L116.pdf).
- **1630, Packers, Loaders, and Shippers**  
Explains the application of tax to disposable temperature recording devices used by shippers of perishable food products.
- **1707, Electronic Funds Transfer**  
Describes the Board's electronic funds transfer program including the conditions for mandatory and voluntary participation. Also see publication 80, *Electronic Funds Transfer Information Guide*, [www.boe.ca.gov/pdf/pub80.pdf](http://www.boe.ca.gov/pdf/pub80.pdf).
- **1802, Place of Sale and Use for Purposes of Bradley Burns Uniform Local Sales and Use Taxes**  
Clarifies that local sales tax revenue can only be allocated to the retailer's in-state sales office if that office participates in the sale.
- **1803.5, Long Term Leases of Motor Vehicles**  
Explains the allocation of local tax on long-term leases of motor vehicles. Also see September 2003 TIB, [www.boe.ca.gov/news/pdf/Sept03tib.pdf](http://www.boe.ca.gov/news/pdf/Sept03tib.pdf).

## Do you sell food through vending machines?

Then you know that the computation of tax for your sales can be complicated. To help make reporting easier, we have developed publication 118, *Selling Food in Vending Machines*. The publication explains how tax applies to different types of vending machine sales and includes an example to help you calculate the figures necessary to properly report your taxable sales. To get your copy of this publication, visit our website at [www.boe.ca.gov/pdf/pub118.pdf](http://www.boe.ca.gov/pdf/pub118.pdf), or call our Information Center.

## Passage of bond measure affects partial tax exemptions

*Some sales qualify for a partial tax exemption. They are exempt from the state's general fund portion of the total sales and use tax rate (the total rate is made up of a state and a city/county portion). As explained below, beginning July 1, 2004, eligible purchases will be exempt from 5.25% (the state portion) of the total sales and use tax rate.—Editor*

In March 2004, California voters approved Proposition 57 (bond measure), which provides for a 0.25% increase in the state rate and a decrease of 0.25% of the local tax rate. The statewide tax rate will remain unchanged and the way you complete your tax returns—including local tax schedules—will not change. You will only see a change if you have sales or purchases that qualify for a partial exemption from sales and use tax.

**Partial Tax Exemptions.** The following regulations provide an exemption from the state's portion of the sales and use tax rate:

- 1525.7, Rural Investment Tax Exemption
- 1532, Teleproduction or Other Postproduction Service Equipment
- 1533.1, Farm Equipment and Machinery
- 1533.2, Diesel Fuel Used in Farming Activities or Food Processing
- 1534, Timber Harvesting Equipment and Machinery
- 1535, Racehorse Breeding Stock

These partial tax exemptions are exempt from the 0.25% increase in the state portion of the tax rate. Therefore, beginning July 1, 2004, the partial tax exemptions will increase from 5.00% to 5.25%.

(PARTIAL continued on page 4)

## When are restaurant tips taxable?

Tips are not taxable if they are paid by customers on an entirely voluntary basis and are retained by employees. Tips received by your employees directly from customers at the end of a meal without any prearrangement are considered voluntary.

Mandatory or required tips, on the other hand, are taxable. Mandatory tips include the following:

1. Amounts you add to meal or beverage prices, when you notify your customers that you will add a gratuity or service charge to the price of their meals or drinks (for example, a menu statement or posted sign that states, "An 18% gratuity will be added for parties of eight or more").
2. Amounts for tips you list on a guest receipt before giving the receipt to the customer. For example, the following statement is considered a mandatory tip, even though the gratuity is listed as "optional:":

### Guest Check

Caesar salad	\$7.95
Optional 15% gratuity *	1.19
Subtotal	9.14
Tax (7.25%)	0.66
Total	<u>\$9.80</u>

\* This amount represents an optional 15% gratuity. You may raise, lower, or eliminate this gratuity by telling your server.

3. Any gratuity amount or percentage agreed to by your customer before a banquet or catered event, whether the customer agrees orally or signs a written contract. For example, if your standard banquet agreement states "the suggested gratuity is 15%" and prior to the event, your customer agrees to this amount, the gratuity is taxable.

For more information about how tax applies to tips—including pooled

(tips continued on page 4)



## Annual Taxpayers' Bill of Rights hearings

Do you have suggestions for improving our services? Do you want us to look more closely at a tax or fee issue? If you do, come share your ideas and concerns with the elected Members of the Board of Equalization at the annual Taxpayers' Bill of Rights hearings. You can present your proposal orally or in writing.

This year's hearings will be held September 22 in Culver City and October 12 in Sacramento.

If you are interested in attending, please visit us online at [www.boe.ca.gov/tra/tra.htm](http://www.boe.ca.gov/tra/tra.htm), call a local Board office, or call the Taxpayers' Rights Advocate Office, toll-free, at 888-324-2798.

## Small Business Fairs offer expert tax help

We invite current and potential business owners to attend one of our upcoming Small Business Fairs, which offer informative workshops on federal, state, and local tax and business requirements. The business fairs are free, but reservations are recommended.

### Upcoming Fairs

#### Culver City, June 25

West Los Angeles College  
For more information, call our Culver City Office (310) 342-1080.

#### Baldwin Park, September 10

San Gabriel Valley Hotel  
For more information, call our West Covina Office (626) 480-8226.

#### Fullerton, September 17

California State University, Fullerton  
For more information, call our Laguna Hills Office (949) 461-5732.

To check for other upcoming fairs, please visit our website at [www.boe.ca.gov/sutax/tpsched.htm](http://www.boe.ca.gov/sutax/tpsched.htm).

## Torrance District Office closing—nearby cities will continue to provide services

The Torrance District Office is scheduled to close by September 1, 2004, and all Torrance staff and accounts will transfer to our Culver City District Office.

The decision to close the Torrance Office was made after much consideration about how taxpayers would be affected. The closing is part of the Board's efforts to address state budget constraints and still provide quality taxpayer services.

For most people, the effect of the closing will be minimal. The Culver City Office will provide the full range of services you received from the Torrance Office. After the office

closure, taxpayers who wish to go to a district office in person will need to visit one of our nearby locations:

#### Culver City

5901 Green Valley Circle, Suite 200  
Culver City, CA 90231-3652  
310-342-1000

#### Norwalk

12440 E. Imperial Highway  
Norwalk, CA 90651-0409  
562-466-1694

#### Long Beach

100 West Broadway, Suite 305  
Long Beach, CA 90802-4431  
562-901-2483



(NEW RATES continued from page 1)

#### ■ Mariposa County: 7.25%

On June 30, 2004, the 0.50% Mariposa County Healthcare Authority tax will expire at midnight. Beginning July 1, 2004, the new sales and use tax rate in the county will decrease from 7.75% to 7.25%.

We recently mailed notices about the new tax rates to businesses in Alameda and Mariposa Counties as well as the cities of Santa Cruz, Davis and Visalia. The notice explains who must collect tax at the new rates, which fixed-price contracts are exempt from the tax increases, and how to handle Mariposa sales contracts that specify the higher tax rate, but the sale occurred on or after July 1, 2004. For a copy of the notice, please go online to [www.boe.ca.gov/news/isncont04.htm](http://www.boe.ca.gov/news/isncont04.htm) or call our Information Center.

(PARTIAL continued from page 2)

To calculate the tax rate for a qualifying transaction, subtract 5.25% from the tax rate that would apply if the transaction were fully taxable. For example, if the full tax rate that would apply to a taxable sale is 7.75%, the tax rate for a qualifying sale is 2.50% (7.75% - 5.25% = 2.50%).

To read the regulations listed on page 2, please visit our website at [www.boe.ca.gov/sutax/staxregs.htm](http://www.boe.ca.gov/sutax/staxregs.htm). Or call our Information Center for a copy of the regulation.

(TIPS continued from page 2)

tips that are for taxable and nontaxable services, see publication 115, *Applying Sales Tax to Tips and Related Payments*. This publication is available online at [www.boe.ca.gov/pdf/pub115.pdf](http://www.boe.ca.gov/pdf/pub115.pdf) (or call our Information Center for a copy).

## Are you an operator and not the owner of an underground storage tank?

The underground storage tank maintenance fee is imposed on the owner of the tanks. So, if you operate—but do not own—an underground storage tank, you can help the owners by contacting them and letting them know that they must register with the Board and report and pay the UST fee due on the petroleum-based products placed in the tanks. Penalty and interest charges apply to unpaid fees; therefore, it is important that owners register as soon as possible.

## Basic sales and use tax classes offered in local offices

You may enroll in a free basic sales and use tax class offered by some of our local offices. You should call ahead to find out whether your local office conducts a class for beginning sellers (local offices are generally listed in the government pages of your telephone directory, under State of California, Equalization, Board of). You can also check online at [www.boe.ca.gov/cgi-bin/tax\\_class.cgi](http://www.boe.ca.gov/cgi-bin/tax_class.cgi).

## New or revised reference material

### Sales and Use Tax Publications

- 18 Tax Tips for Nonprofit Organizations (May 2004)
- 32 Tax Tips for Sales to Purchasers from Mexico (December 2003)
- 53 Guide to the Managed Audit Program (February 2004)
- 64 Tax Tips for Jewelry Stores (January 2004)
- 70 The California Taxpayers Bill of Rights (April 2004)
- 74 Closing Out Your Seller's Permit (April 2004)
- 78 Sales of Cigarettes and Tobacco Products in California (May 2004)
- 112 Purchases from Out-of-State Vendors (April 2004)

### Sales and Use Tax Regulations

- 1591 Medicines and Medical Devices (revised, effective February 25, 2004)
- 1598.1 Diesel Fuel Prepayment Exemption (new, January 1, 2004, operative October 9, 2002)
- 1621 Sales to Common Carriers (revised January 21, 2004)

### Translated Publications

- 51-C Guide to Board of Equalization Services (April 2003) Chinese
- 73-V Your California Seller's Permit (March 2003) Vietnamese
- \*\*\*\* Striking Gold in California (2003 edition) Vietnamese

### For More Information All telephone numbers are toll-free.

#### Internet

[www.boe.ca.gov](http://www.boe.ca.gov) ■ [www.taxes.ca.gov](http://www.taxes.ca.gov)

#### Information Center

800-400-7115  
Telephone devices for the deaf  
800-735-2929 (TDD) ■ 800-735-2922 (Voice)  
800-400-7115 (Choose automated services.)

#### Requests for Fax Copies

888-225-5263 ■ [www.boe.ca.gov](http://www.boe.ca.gov)

#### Seller's Permit Verification

888-324-2798 ■ [www.boe.ca.gov](http://www.boe.ca.gov)

#### Taxpayers' Rights Advocate

888-334-3300

#### Tax Evasion Hotline

[www.leginfo.ca.gov](http://www.leginfo.ca.gov)

#### State Legislation